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Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

D A C / I P W

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: James W. Lillard

Application No.: 10/712,398

Art Unit: 1642

Filed: November 14, 2003

Examiner: Halvorson

Title: Anti-Chemokine and Associated Receptors Antibodies for Inhibition of Growth of Neoplasms

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

Small entity-fee \$ 810.00 (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

Other than small entity-fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of Response (identify type of reply):

has been filed previously on _____.

is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____
 has been paid previously on _____.

is enclosed herewith.

07/29/2009 JAD101 00000040 10712398

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[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

3. Terminal disclaimer with disclaimer fee

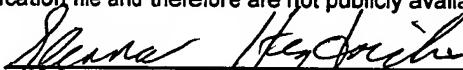
Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



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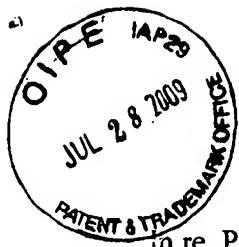
Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: _____**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

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Date_____
Signature_____
Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re. Patent Application of Lillard, et al.

USSN 10/712,398

Filed: November 14, 2003

Art Unit 1642

Title: Anti-chemokine and Associated Receptor Antibodies for Inhibition of Growth of
Neoplasms

AMENDMENT AND RESPONSE WITH PETITION TO REVIVE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 28, 2009

This Amendment and Response is provided with a Petition to Revive. The first named inventor had moved to another institution and communications relating to this application had been communicated poorly. Hence, the undersigned did not receive a response in a timely manner.

The claims as amended appear on the following page. Please note that the claims have been amended to claim only the anti-CXCL 13 antibodies.

Claims 1-8 (previously canceled)

Claims 9-11 (canceled)

Claims 12-14 (previously canceled)

Claims 15-18 (canceled)

19. (New)

A method of inhibiting malignant cell migration and metastasis in a host having a malignancy which is melanoma, leukemia or carcinoma by administration of a migration-inhibiting effective amount of a composition containing anti-CXCL-25 antibodies in a pharmaceutically acceptable carrier.

20. (New)

The method of claim 19 wherein the host has a melanoma.

21. (New)

The method of claim 19 wherein the host has a leukemia.

22. (New)

The method of claim 19 wherein the host has a carcinoma.

23. (New)

The method of claim 19 wherein the antibodies are humanized, human or chimeric antibodies.

Response to Rejections of record.

Claims 9 and 10 have been rejected under 35 U.S.C. 102 as anticipated by Arenberg, et al. The claims with limitations to which that rejection would apply have been canceled. Hence, the issue is deemed moot.

Claims 9-11, 15 and 17 have been rejected under 35 U.S.C. 102 as anticipated by WO 00/53635. The rejection as applied to the claims 19 to 22 as recited herein is respectfully traversed as to the newly supplied claims. As is seen from the information provided in the table at page 13, it is clear that the claimed antibody is particularly useful for the treatment of the claimed conditions. WO teaches the use of the antibodies as diagnostic tools, but does not identify malignancies for which a particular antibody is useful. It is only in reading the application under consideration that the particular usefulness of the cited antibody is seen.

The claim 11 has been rejected under 35 U.S.C. as unpatentable over Arenberg in view of DeLuka. It is believed the rejection would likewise be applied to claim 23. The rejection is respectfully traversed. It is not argued that humanization or chimerization of antibodies is new, but that the use of the specific antibodies under consideration in accord with the claims is not obvious over the art of record.

It is believed the claims as amended are in condition for allowance. If discussion with the undersigned would prove useful in moving prosecution forward, the examiner is invited to call the undersigned at 703 425 8405.

Respectfully submitted,



Glenna Hendricks
Glenna Hendricks, Reg. No. 32,535